

Sec. 652-1 HRS provides that the garnishee shall withhold from the time of the service of process so much of the salary, stipend, commissions, wages, annuity or net income or portion of net income under a trust (included under term "wages" as provided by law) as follows, to-wit, 5% of the first \$100.00 per month, 10% of the next \$100.00 per month and 20% of all sums in excess of \$200.00 per month, or an equivalent portion of the above amount per week, then or thereafter to become due, owing or belonging to said defendant herein and pay such amount or amounts so withheld upon the foregoing judgment together with legal interest thereon until fully paid or until further order of the above-entitled court.

#### **HRS, Section 652-9**

Garnishee may be heard on notice to plaintiff. Whenever any person summoned as a garnishee may be desirous of so doing, he may apply to the magistrate or any judge of the court from which the summons may have issued, and the magistrate or judge having caused reasonable notice to be given to the plaintiff in the action, shall proceed to take the deposition of the person thus summoned, and make such order as may be proper in the premises, at any time previous to the date appointed for hearing the cause, and the person so summoned as garnishee, shall be taken to have obeyed the summons. If it appears that there are conflicting claims to any moneys held for safekeeping, debt, goods or effects in the garnishee's hands, any time after the summons is served the garnishee may be permitted upon order of the judge or magistrate to pay into the goods or effects in his hands, less any reasonable costs and attorney's fees allowed by the judge or magistrate and the garnishee will thereupon be discharged. With or without payment into court, any garnishee may, where there are conflicting claims to any moneys held for safekeeping, debt, goods or effects in his hands of any amount, make application for an interpleader order in the manner provided by HRS, Sec. 634-41, for defendants and the magistrate or judge shall thereupon make all orders as appear to be just and reasonable.

**NOTE:** (1) "Wages" includes salary, stipend, commissions, wages, annuity or net income or portion of net income under a trust. (Act 65, S. L. 1959).

**NOTE:** (2) No pension to which any person is entitled from the State of Hawaii, or any municipal subdivision thereof, shall be subject to taxes nor to garnishment, attachment of execution upon or in any suit, action or proceeding at law instituted by any person or by the State of Hawaii or by any municipal subdivision thereof. (HRS, Section 653-3).

#### **\*SEE FEDERAL WAGE GARNISHMENT LAW FOR APPLICABLE RESTRICTIONS.**

#### **IMPORTANT NOTICE FEDERAL WAGE GARNISHMENT LAW**

The garnishment restrictions of Title III of the Consumer Credit Protection Act (15 U.S.C. 1673) provide that no court of the United States or of any State may make, execute, or enforce any order or process which provides for the garnishment of the aggregate disposable earnings of any individual for any pay period in an amount which is in excess of the following:

#### **EFFECTIVE SEPTEMBER 1, 1997**

<b>WEEKLY</b>	<b>BIWEEKLY</b>	<b>SEMIMONTHLY</b>	<b>MONTHLY</b>
<b>\$154.50 or less:</b> None	<b>\$309.00 or less:</b> None	<b>\$334.75 or less:</b> None	<b>\$669.50 or less:</b> None
<b>More than \$154.50 but less than</b> \$206.00: Amount Above \$154.50	<b>More than \$309.00 but less than</b> \$412.00: Amount Above \$309.00	<b>More than \$334.75 but less than</b> \$446.33: Amount Above \$334.75	<b>More than \$669.50 but less than</b> \$892.67: Amount Above \$669.50
<b>\$206.00 or more: Maximum 25%</b>	<b>\$412.00 or more: Maximum 25%</b>	<b>\$446.33 or more: Maximum 25%</b>	<b>\$892.67 or more: Maximum 25%</b>

**NOTE:** The amount of disposable earnings subject to garnishment is determined by the restrictions which are in effect at the time such earnings are paid or payable.

These restrictions do not apply in the case of (1) Court orders for the support of any person, (2) Court orders under Chapter XIII of the Bankruptcy Act, and (3) Any debt due for any State or Federal Tax. The amount of disposable earnings exempt from garnishment must be paid to the employee or garnishee on the regular pay day for the pay period in which the wages were earned.

"Disposable earnings" is compensation paid or payable for personal services less any amounts required to be withheld by law.

The law also prohibits an employer from discharging any employee because his earnings have been subjected to garnishment for any one indebtedness. The term "one indebtedness" refers to a single debt, regardless of the number of levies made or creditors seeking satisfaction. Whoever willfully violates the discharge provisions of this law may be prosecuted criminally and fined up to \$1,000, or imprisoned for not more than one year, or both.

A section or provision of the State law that requires a larger amount to be garnished than the Federal Law permits is considered preempted by the Federal law. On the other hand, the State law provision is to be applied if it results in a smaller garnishment amount.

Further information regarding the Federal Wage Garnishment Law may be obtained from any office of the Wage and Hour Division, U.S. Department of Labor.

*Exhibit "A"*